

THE YITZHAK LAW GROUP

ERICA T. YITZHAK

MICHELE M. BOWMAN*

SARADJA PAUL

ATTORNEYS AT LAW

**ALSO ADMITTED IN TEXAS*

July 9, 2020

VIA: ECF

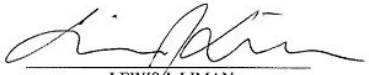
Application DENIED WITHOUT PREJUDICE. Defendants may renew the motion to compel on notice to the third parties referenced below.

Hon. Lewis J. Liman
U.S. District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

The Court reminds Defendants, as it did on June 4, 2020 (*see* Dkt. No. 52) that, pursuant to Paragraph 1(A) of the Court's Individual Practices in Civil Cases, all communications with the Court should be filed on ECF in text-searchable form.

7/9/2020

Re: Request for Order of Compliance with Third-Party Subpoenas


LEWIS J. LIMAN
United States District Judge

Santiago Rocaél Perez Ramirez v. A Spice Route, Inc. d/b/a Tandoor Palace, Satya Foods Inc. d/b/a A Saffron Thread, Inderjeet Singh, and Manveen Singh | **Docket No. 19-CV-07641**

Dear Judge Liman:

My firm represents the Defendants in the above matter, which was brought under the Fair Labor Standards Act and the New York Labor Law. Plaintiff Santiago Rocaél Perez Ramirez alleges to have worked certain hours as a delivery person and kitchen helper for Defendant Manveen Singh's lower-Manhattan restaurant Tandoor Palace on and off from September 2014 to June 2019.

We are now writing to the Court, per Your Honor's directive in our last hearing on June 4, 2020 (Transcript, p. 11), to notify you that we have not received any responses from the third parties on which we served subpoenas in late May and early June. We subpoenaed Relay Delivery and Uber Eats, seeking their records relating to the Plaintiff's employment with those entities during the same time he is alleged to have worked full- and overtime for Defendants.¹

We served Relay Delivery with a subpoena for Plaintiff's records of time, pay, and/or employment on May 29, with a return date of June 12 (**Exhibit A**). We served Uber Eats with a

¹ We also served the Asian Wok Restaurant with a similar subpoena, based on Defendant Manveen Singh's good faith belief that the Plaintiff was working simultaneously for this restaurant, located next door to her own. Enforcement of this subpoena is not necessary at this point because we were able to secure an affidavit from the owner of the Asian Wok.


Perez Ramirez v. A Spice Route, Inc.
July 9, 2020
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subpoena for the same on June 4, with a return date of June 18 (**Exhibit B**). Neither entity has responded.

We believe responses to these subpoenas will show that Plaintiff was working for other restaurants and/or food delivery services during the same time he was claiming to be working up to 78 hours per week for Defendants, thereby negating the possibility he was working as a non-exempt full-time employee for Defendants, as he claims in his complaint. We also believe that responses to these subpoenas will assist us in deposing the Plaintiff,² which will be essentially fruitless unless we have evidence to confront him with. Given that all of his answers have been “none” thus far, as I noted to the Court in our June 4 hearing (Transcript, pp. 9-10, 15-16) and the Court acknowledged (Transcript, p. 18), we expect more of the same, absent any concrete proof he was working for others.

Because we have not received Plaintiff’s employment records from these third parties yet, due to no fault of our own, at this time we are only asking the Court to “So-Order” the Relay Delivery and Uber Eats subpoenas, which we will then re-serve.

Thank you for your consideration.

Yours,

Michele M. Bowman

² We are in the process of scheduling a phone conference with Plaintiff’s counsel on Friday, July 10 to discuss the rescheduling of Plaintiff’s and Defendants’ depositions, so another letter-motion is likely forthcoming from the parties on that issue.

EXHIBIT A

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Santiago Rocael Perez Ramirez*Plaintiff*

v.

A Spice Route, Inc. d/b/a Tandoor Palace, Satya
Foods Inc. d/b/a A Saffron Thread, et al.*Defendant*

Civil Action No. Case No. 19-cv-07641

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Relay Delivery, 440 Park Avenue South, 14th Floor, New York, NY 10016

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Records of time, pay, and/or employment of Santiago Rocael Perez Ramirez

Place: The Yitzhak Law Group
1 Linden Place, Suite 406, Great Neck, NY 11021

Date and Time:

06/12/2020 12:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 05/27/2020

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) A Spice Route Inc. Tandoor Palace, Inderjeet Singh and Manveen Singh, who issues or requests this subpoena, are:

Michele M. Bowman, The Yitzhak Law Group, 1 Linden Place, Suite 406, Great Neck, NY 11021,
michele@etylaw.com, 516-466-7144

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Attorney(s)

Index # 19-cv-07641

Purchased/Filed:

State of New York

Court: U. S. District

County: Southern Dist.

AFFIDAVIT OF SERVICE - SECRETARY OF STATE

Santiago Roca Perez Ramirez

Plaintiff(s)

against

A Spice Route, Inc. d/b/a Tandoor Palace, et al

Defendant(s)

STATE OF NEW YORK)
COUNTY OF ALBANY) SS
CITY OF ALBANY)**DESCRIPTION OF PERSON SERVED:**

Approx. Age: 55 Yrs.

Weight: 120 Lbs. Height: 5' 0" Sex: Female Color of skin: White

Hair color: Blonde Other:

Sean Warner, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; is not a party to this action, and resides in the State of NY, and that on May 29, 2020, at 12:15PM, at the office of the Secretary of State of the State of NY, located at 99 Washington Ave, 6th Fl, Albany, New York 12231 deponent served:

Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

on

Relay Delivery

the Defendant in this action, by delivering to and leaving with Sue Zouky
AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of \$40 dollars; That said service was made pursuant to Section BUSINESS CORPORATION LAW §306.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

29th day of May 2020



ROBERT GUYETTE

Notary Public State of New York

01GU6382699 RENSSELAER COUNTY

Commission Expires OCTOBER 29, 2022



Sean Warner

Invoice Work Order # 2012134

Attorney File # Ramirez

EXHIBIT B

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Santiago Roca Perez Ramirez

Plaintiff

v.

A Spice Route, Inc. d/b/a Tandoor Palace, Satya
Foods Inc. d/b/a A Saffron Thread, et al.

Defendant

Civil Action No. Case No. 19-cv-07641

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Uber Technologies, Inc., 28 Liberty St., New York, NY, 10005

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: **Records of time, pay, and/or employment of Santiago Roca Perez Ramirez by Uber Eats in New York City**

Place: The Yitzhak Law Group
1 Linden Place, Suite 406, Great Neck, NY 11021Date and Time:
06/18/2020 12:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/03/2020

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) **A Spice Route Inc.**
Tandoor Palace, Inderjeet Singh and Manveen Singh, who issues or requests this subpoena, are:

Michele M. Bowman, The Yitzhak Law Group, 1 Linden Place, Suite 406, Great Neck, NY 11021,
michele@etylaw.com, 516-466-7144

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Attorney(s)

Index # **19-CV-07641**

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County: Southern Dist.

AFFIDAVIT OF SERVICE - SECRETARY OF STATE

Santiago Roca Perez Ramirez

Plaintiff(s)

against

A Spice Route Inc d/b/a Tandoor Palace et al

Defendant(s)

STATE OF NEW YORK)	DESCRIPTION OF PERSON SERVED:	Approx. Age: <u>55 Yrs.</u>
COUNTY OF ALBANY) SS	Weight: <u>120 Lbs.</u> Height: <u>5' 0"</u> Sex: <u>Female</u> Color of skin: <u>White</u>	
CITY OF ALBANY)	Hair color: <u>Blonde</u> Other: _____	

Robert Guyette, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; is not a party to this action, and resides in the State of NY, and that on June 4, 2020, at 12:00PM, at the office of the Secretary of State of the State of NY, located at 99 Washington Ave, 6th Fl, Albany, New York 12231 deponent served:

Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

on


Uber Technologies Inc.


the Defendant in this action, by delivering to and leaving with Sue Zouky AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of \$40 dollars; That said service was made pursuant to Section BUSINESS CORPORATION LAW §306.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

4th day of June 2020


 FAITH COZART
 NOTARY PUBLIC, State of New York
 No. 01CO6158874, Albany County
 Commission Expires Jan 8, 2023


 Robert Guyette

Invoice-Work Order # 2012812
 Attorney File # **Ramirez**